

**LEGISLATIVE SERVICES AGENCY  
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301  
Indianapolis, IN 46204  
(317) 233-0696  
<http://www.in.gov/legislative>

**FISCAL IMPACT STATEMENT**

**LS 6901**

**BILL NUMBER:** SB 248

**NOTE PREPARED:** Feb 26, 2007

**BILL AMENDED:**

**SUBJECT:** Sexual Predators and Parole.

**FIRST AUTHOR:** Sen. Mrvan

**FIRST SPONSOR:** Rep. L. Lawson

**BILL STATUS:** As Passed Senate

**FUNDS AFFECTED:** X **GENERAL**  
**DEDICATED**  
**FEDERAL**

**IMPACT:** State

**Summary of Legislation:** This bill requires a sexually violent predator whose sentence does not include a commitment to the Department of Correction (DOC) to be placed on lifetime parole.

**Effective Date:** July 1, 2007.

**Explanation of State Expenditures:** *Summary* - This bill is likely to result in a minimum increase in expenditures for the Department of Correction Parole Division. Under current law, offenders convicted of vicarious sexual gratification are considered to be sexually violent predators and are required to be placed on lifetime parole. But persons convicted of vicarious sexual gratification with no prior felonies may be able to have their sentence suspended and not serve any prison time. Because they would not necessarily receive a term of incarceration as a first-time offense, there is no clear way for state law to require that these offenders be placed on lifetime parole. This bill would require these offenders to be placed on lifetime parole even if they served no prison time. The number of offenders convicted of vicarious sexual gratification with no prior felonies and who were placed on probation instead of being incarcerated was not available. In CY 2005, four persons with no previous DOC commitment and four persons with a prior DOC commitment were committed to DOC for vicarious sexual gratification.

*Background* – The term "sexually violent predator" means a person who suffers from a mental abnormality or personality disorder that makes the individual likely to repeatedly engage, attempt, or conspire in any of the following offenses: rape; criminal deviate conduct; child molesting; child exploitation; vicarious sexual gratification; child solicitation; child seduction; sexual misconduct with a minor as a Class A, Class B, or Class C felony; incest; sexual battery; kidnapping or criminal confinement, if the victim is less than 18 years of age; or possession of child pornography as a second-time offense.

Under current law, when sexually violent predators complete their term of incarceration they are required to be placed on parole for the rest of their lives. However, if a sexually violent predator does not receive a term of incarceration, the sexually violent predator would not be placed on parole.

Legally, it appears that persons found guilty of vicarious sexual gratification are recognized by statute as sexually violent predators but are not required to serve a minimum prison sentence as a first-time offense. Depending on the discretion of the court, these offenders could have their sentence suspended and be placed on probation. Because they would not necessarily receive a term of incarceration as a first-time offense, there is no clear way for state law to require that these offenders be placed on lifetime parole.

The following table shows the legal requirements for offenders who are by law sexually violent predators and whether the court can suspend all of their sentence and allow these offenders to be placed directly on probation and avoid incarceration altogether.

<b>Statutory Requirement for Sex Offenders</b>				
Statutory Cite	<u>IC 35-38-1-7.5</u>		<u>IC 35-50-2-2</u>	
Statutory Requirement	Required to register as Sexually Violent Predator		Required to Serve Minimum Prison Sentence	
<u>Offense</u>	<u>First-time offense</u>	<u>If previous unrelated sex crime</u>	<u>As first offense</u>	<u>If any prior felony conviction</u>
Rape (IC 35-42-4-1)	x		x	
Criminal deviate conduct (IC 35-42-4-2)	x		x	
Child molesting (IC 35-42-4-3) Class A or B	x		x	
Child molesting (IC 35-42-4-3) Class C		x	x	
Child exploitation (IC 35-42-4-4(b))		x		x
<b>VICARIOUS SEXUAL GRATIFICATION (IC 35-42-4-5)</b>	<b>X</b>			<b>X</b>
Child solicitation (IC 35-42-4-6)		x		x
Child seduction (IC 35-42-4-7)		x		x
Sex misconduct w/ minor Class D felony (IC 35-42-4-9)		x		x
Incest (IC 35-46-1-3)		x		x
Sexual battery (IC 35-42-4-8) with a deadly weapon		x	x	
Sexual battery (IC 35-42-4-8)		x		x
Kidnaping (IC 35-42-3-2), if victim younger than 18		x	x	
Criminal confinement (IC 35-42-3-3), if victim younger than 18		x		x
Possession of child pornography (IC 35-42-4-4(c)), with prior unrelated conviction		x		x

### **Explanation of State Revenues:**

**Explanation of Local Expenditures:** Sexually violent predators are required to register for the rest of their lives with local law enforcement agencies whenever they change residences, schools, or jobs. They are also required to wear a monitor which can transmit information about their current location 24 hours a day.

**Explanation of Local Revenues:**

**State Agencies Affected:** Department of Correction.

**Local Agencies Affected:** Local law enforcement agencies.

**Information Sources:** Indiana Code; Department of Correction Offender Information System.

**Fiscal Analyst:** Mark Goodpaster, 317-232-9852.